

Internal Revenue Service

Department of the Treasury

Washington, DC 20224

Person to Contact:

Telephone Number:

Refer Reply to:

Date:

APR 08 1992

EIN: [REDACTED]
DO: [REDACTED]

Dear Applicant:

This is in reply to your application for recognition of exemption under section 501(c)(6) of the Internal Revenue Code.

We have reviewed the information you have submitted and have concluded that you do not qualify for recognition of exemption under section 501(c)(6) of the Internal Revenue Code because your activities constitute particular services and you are, in part operating a trade or business.

You were established to assist a related organization, [REDACTED] (hereinafter referred to as the Center) to promote the growth and commercialization of the biotechnology industry in [REDACTED]. The Center was established by the [REDACTED] General Assembly to assist the growth of biotechnology research in the state.

The Center has been recognized as exempt under section 501(c)(3) of the Code. It was established to serve as a coordinating body to bring together the resources, capabilities, and opportunities in such a way that biotechnology activity in the State would become a productive industry. The Center determined that certain types of activities could be better carried out through a section 501(c)(6) organization. Accordingly, you were established by the Center and the State to administer an economic development financing program.

When operational your goal is to coordinate academia, and research with an aim towards commercializing the biotech industry in the state. You do not have any members rather you are controlled by the Center. Your primary source of funding is State appropriations. Your bylaws establish that the members of your board of directors are to be appointed by the executive board of the Center.

Re: [REDACTED]

You are also to be involved in the collection of data regarding the industry and analyzing and disseminating this information to interested persons. This activity is to be done at a fee set to recover costs. Other programs will include administering an Economic Development Financing Program which will direct financial support to researchers developing new technologies for commercial use; encouraging local companies use of federal funding; providing advice to researchers on the transfer of their technology from the concept to the commercialization phase; identifying opportunities for investment in local biotech firms; assisting the entrepreneurial efforts of other corporations; developing models of approaches; providing opportunities for partnered approaches to new markets and providing support for seminars, surveys and other informational services. Included in your informational services is the creation of reports tailored to the specific information requests of companies, government organizations and other groups. However, your most important program will be administering an economic development financing program that will provide direct financial support to researchers and companies in the biotech field. The proposed budgets you have submitted indicate that program services and economic development financing constitute two-thirds of your expenses and administrative costs the final third.

You and the Center will maintain separate books and records but will act to coordinate their activities to whatever degree is possible. It is also intended that you and the Center will share certain expenses and employees and perhaps in the future facilities.

Section 501(c)(6) of the Code provides for the exemption from federal income tax of business leagues and chambers of commerce not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 1.501(c)(6)-1 of the Income Tax Regulations defines a business league as an association of persons having some common business interest, the purpose of which is to promote such common interest. Its activities should be directed towards the improvement of business conditions in one or more lines of business as distinguished from the performance of particular services for individual persons. An organization whose purpose is to engage in a regular business of a kind ordinarily carried on for profit, even though the business is conducted on a cooperative basis or produces only sufficient income to be self-sustaining is not a business league.

Re: [REDACTED]

Rev. Rul. 68-264, 1968-1 C.B. 264, defines a particular service for the purposes of section 501(c)(6) of the Code as an activity that serves as a convenience or an economy to the members of the organization in the operation of their own businesses.

Rev. Rul. 70-81, 1970-1 C.B. 131 holds that the exempt status of a chamber of commerce is not adversely affected by the development of an industrial park in order to attract new industry to the community. The ruling indicates that the community lacked suitable facilities and services to attract new industry and that the sites in the park were offered to businesses at prices which were often below actual cost or fair market value.

Rev. Rul. 81-138, 1981-1 C.B. 358 holds that an exempt organization created by a chamber of commerce to encourage industrial, commercial, and business development in a particular area which leases a building to an industrial tenant at less than the fair rental value is not taxed under section 514 of the Code on the proceeds of the lease because the activity is substantially related to the exempt purposes of the organization.

The information you have submitted establishes that your proposed activities are to be primarily directed towards assisting private biotech companies and individual researchers commercialize their products. You intend to establish a program to provide direct financial support and assistance. You intend to collect, analyze and disseminate information for a fee. You will provide financing, advice, assist the entrepreneurial efforts of local corporations, provide opportunities for partnered approaches to new markets, and create reports tailored to specific information requests from various companies, governmental organizations and other groups. Your proposed budgets indicate that such activities will constitute more than [REDACTED] percent of your expenditures.

An organization established to encourage development in a particular industry or area may qualify for recognition of exemption under section 501(c)(6) of the Code. See Rev. Ruls. 70-81 and 81-138. However, where the organization's activities primarily benefit the private interests of a company or an individual as opposed to the industry in general the subject organization will not qualify for recognition of exemption under section 501(c)(6). An organization that provides a convenience or an economy to its members in the performance of their own business is providing a particular service to the assisted organizations and will not qualify for exemption. See Rev. Rul. 68-264.

Re: [REDACTED]

In this situation it is clear that the primary activities carried on by the organization serve to benefit individual researchers and companies' in the biotech industry. They receive direct financial assistance, specifically designed data, advice, and assistance in obtaining commercial source financing. These services are available to an organization on the commercial market and if you did not provide such services the individuals would have to obtain them through other means. Therefore, by providing these services you are providing an economy or a convenience to the individual members of the industry. Providing a convenience or an economy to an individual or company is a particular service and if this activity is your primary activity you will not qualify for exemption under section 501(c)(6). As previously stated, as indicated by your proposed budgets providing this assistance is your primary activity. Accordingly, we have concluded that you do not qualify for recognition of exemption under section 501(c)(6) of the Code.

In addition, providing data collection and similar research for a fee is an activity similar to a trade or business and not an exempt section 501(c)(6) activity.

Accordingly, as previously stated, we have concluded that you do not qualify for recognition of exemption under section 501(c)(6) of the Code because your primary purpose is to provide particular services to your members and you, in part, operate in a manner similar to a regular trade or business.

You have the right to protest this ruling if you believe it is incorrect. To protest, you should submit a statement of your views, with a full explanation of your reasoning. This statement, signed by one of your officers, must be submitted within 30 days from the date of this letter. You also have a right to a conference in this office after your statement is submitted. You must request the conference, if you want one when you file your protest statement. If you are to be represented by someone who is not one of your officers or directors, that person will need to file a proper power of attorney and otherwise qualify under our Conference and Practices Requirements.

If we do not hear from you within 30 days, this ruling will become final and copies will be forwarded to your key District Director. Thereafter, any questions about your federal income tax status or the filing of tax returns should be addressed to that office.

When submitting additional letters with respect to this case to the Internal Revenue Service, you will expedite their receipt

-5-

Re: [REDACTED]

by placing the following symbols on the envelope: [REDACTED]
[REDACTED]. These symbols do not refer to your case but rather to
its location.

Sincerely yours,

(signed) [REDACTED]
[REDACTED]

Chief, Exempt Organizations
Rulings Branch 1

cc: [REDACTED]

Att: EO Ags

E: EOIR:1-3

EEOM:3

Joseph
3/24/92

Russ
to [REDACTED]
4/8/92